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MARK B. HUTTON
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Born Newton Kansas, December 31, 1953.

ADMISSIONS: Admitted to Bar, 1979, Kansas and U.S. District Court, District of Kansas; 1984, U.S. Court of Appeals, Tenth Circuit; 1986, U.S. Supreme Court; 1987, Oklahoma; 1990, U.S. Court of Federal Claims; 1991, U.S. Court of Appeals, Fifth Circuit; 1993, U.S. District Court, Western and Eastern Districts of Arkansas; 1993, U.S. District Court, District of Arizona; 1997, U.S. District Court, Districts of Colorado and Hawaii; 1997, Creek Nation Tribal Court of the State of Oklahoma; 1997, Lower Brule Sioux Tribal Court; 1999, Supreme Court of Texas; 2000, Supreme Court of Missouri; 2002, District of Columbia; 2009, Supreme Court of New York; 2009, Western and Northern Districts of Oklahoma.

EDUCATION: Washburn University of Topeka (B.B.A., 1976; J.D., 1979). Phi Kappa Phi.

APPOINTMENTS: *Appointed* by the Honorable Samuel C. Pointer, Jr., Chief Judge of the Northern District of Alabama, to the Plaintiffs' Steering Committee (PSC) of MDL-926 *In Re: Silicone Gel Breast Implant Litigation*. *Appointed* by the Honorable Richard A. Schell, Chief Judge of the Eastern District of Texas, to the Plaintiffs' Steering Committee of the *In Re: Norplant Contraceptive Prods. Liab. Litig.*, of MDL 1038.

RECIPIENT: Selected by his peers as one of the *Best Lawyers in America* for the years 1999 to 2010; Selected by his peers as one of the Missouri/Kansas *Super Lawyers* for the years 2005 to 2009; Selected by his peers as Top 100 Missouri/Kansas *Super Lawyers* for the years 2005 to 2007; Selected by his peers and featured in the *Wichita Magazine* as one of Wichita's Top Attorneys for the years 2006 through 2008; Trial Lawyer of the Year Award, Trial Lawyers for Public Justice, 1986.

PRACTICE AREAS: Pharmaceuticals; Medical Malpractice; Products Liability; Personal Injury; *Qui Tam*; Commercial Litigation.

TRIAL EXPERIENCE: Litigated in excess of sixty jury trials to verdict and appeal, including: *Wooderson v. Ortho Pharmaceutical Corp.*, 235 Kan. 387 (1984); *Arvayo v. United States of America*, 580 F. Supp. 753 (1984), 766 F.2d 1416 (1985); *Johnson v. American Cyanamid Co.*, 239 Kan. 279 (1986); *Ogilvie v. International Playtex*, 821 F.2d 1438 (1987); *Gregory v. Carey*,

246 Kan. 504 (1990); *Donnini v. Ouano*, 810 P.2d 1163 (1991); *Aves, et al. v. Shah*, 997 F.2d 762 (10th Cir. 1993); *Aldoroty v. HCA Health Services of Kansas, d/b/a Wesley Medical Center*, No. 95C-1790 (Sedgwick County, Kan., 18th Judicial District Court of Kansas); *Duncan v. West Wichita Family Physicians, P.A.*, No. 06CV0761 (Sedgwick County, Kan. 18th Judicial District Court of Kansas); *Kerns v. HCA Wesley Rehabilitation Hospital, Inc.*, No. 08CV0353 (Sedgwick County, Kan. 18th Judicial District Court of Kansas). Lead counsel in many additional cases that have gone to trial or settled during trial or post-verdict.

LEGAL EXPERIENCE: Mark Hutton is the founder of Hutton & Hutton Law Firm, L.L.C., which is comprised of members Mark B. Hutton and Andrew W. Hutton, five associate attorneys (two of whom are also Registered Nurses), and twelve support staff members. The law firm, which originated in 1979 under the name Michaud, Cordry, Michaud, Hutton & Hutton, handles medical malpractice, pharmaceutical and products liability cases, but also handles complex class-action, personal injury, aircraft, and limited commercial cases.

Mark Hutton and the Firm have represented victims of pharmaceutical, medical, hospital and products liability, which have resulted in over 20 verdicts in excess of \$1 million for individual plaintiffs, including record individual verdicts in Kansas and Oklahoma. Representative verdicts, clients and mass tort litigation include the following:

Aves, et al., v. Shah, 997 F.2d 762 (10th Cir. 1993). Plaintiff: Darcy Aves was severely injured during birth, resulting in severe mental and physical retardation. Darcy is also blind and suffers from seizures and cerebral palsy. Defendant: Nasreen Shah, M.D. Darcy's twin sister, Danna, was born healthy. Outcome: Jury awarded \$23.6 million in November of 1990, the largest jury verdict in Kansas and one of the largest personal injury verdicts in the nation.

Wooderson v. Ortho Pharmaceutical Corp., 235 Kan. 387 (1984). Plaintiff: Carol Wooderson lost both kidneys to a blood disorder caused by a contraceptive and underwent two kidney transplants. Defendant: Ortho Pharmaceuticals (Johnson & Johnson). Product: Birth control pills. Outcome: Jury awarded \$4.75 million in February 1983; manufacturers reduced level of estrogen in pills and added consumer information.

Johnson v. American Cyanamid Co., 239 Kan. 279 (1986). Plaintiff: Emil Johnson contracted polio from his newly vaccinated granddaughter and died from respiratory paralysis. Defendant: Lederle Labs (American Cyanamid). Product: Oral polio vaccine. Outcome: Jury awarded \$10 million in May 1984, but the Kansas Supreme Court overruled in a 4-3 decision and threw out the verdict; manufacturers began warning of potential for contracting polio through personal contact.

Ogilvie v. International Playtex, 821 F.2d 1438 (1987). Plaintiff: Kelly Ogilvie, whose wife died from toxic shock syndrome. Defendant: International Playtex. Product: Super absorbent tampons. Outcome: Jury awarded \$11.2 million in February 1985; manufacturers took tampons off the market and added warnings.

Graham v. Wyeth Labs, 666 F. Supp. 1483 (D. Kan. 1987). Plaintiff: Michelle Graham had a severe neurological reaction to a vaccine and suffered brain damage. Defendant: Wyeth Labs (American Home Products). Product: DPT vaccine. Outcome: Jury awarded \$15 million in October 1987; manufacturers purified vaccine.

Mason v. Texaco, 948 F.2d 1546 (10th Cir. 1991). Plaintiff: Wife and children of Otis Mason, who died of leukemia caused by exposure to benzene. Defendant: Texaco. Product: Benzene, an industrial solvent and gasoline component. Outcome: Jury awarded \$34 million in January 1990.

Arvayo v. United States of America, 580 F. Supp. 753 (1984). Plaintiff: Jose M. Arvayo, a minor, who contracted bacterial meningitis leading to severe brain damage as a result of failure to diagnose and treat by a family physician at McConnell Air Force Base. Defendant: United States of America. Outcome: The District Court awarded \$1.95 million, largest Federal Tort Claims Act medical negligence verdict in Kansas. Reversed 766 F.2d 1416 (1985).

Simmons v. Showa Denko. Plaintiff: Randy Simmons became a ventilator-dependent quadriplegic and died two months after settlement. Defendant: Showa Denko. Product: L-Tryptophan. Outcome: Settled for undisclosed amount in early 1992; L-tryptophan taken off the market.

Aldoroty v. HCA Health Services of Kansas, d/b/a Wesley Medical Center, No. 95C-1790 (Sedgwick County, Kan.). Plaintiff: Neil Aldoroty, M.D., a Wichita psychiatrist. Failure by Wesley Medical Center to report/compare x-rays from 1991 and 1992 resulted in late diagnosis of lymphoma. Lymphoma would have been curable by radiation if diagnosed in 1991 or 1992. Outcome: Jury awarded \$1.245 million in November 1996.

Kerns v. HCA Wesley Rehabilitation Hospital, Inc., No. 08CV0353 (Sedgwick County, Kan.). Plaintiff James Kerns developed a severe E. coli infection after a Wesley Rehabilitation Hospital nurse dropped a dressing on the floor, picked it up and re-applied it on a surgical wound. Outcome: Jury awarded \$437,293 in compensatory damages plus punitive damages. This is the first punitive damage award in Kansas against a health care provider.

Olin Nelson, et al., v. St. Paul Fire & Marine Ins. Co., et al., (D.Ct. Brazoria, Tex., No. 95G1088). This case involved insurance fraud upon oil and gas limited partnership investments. This class action resulted in a settlement of \$25 million.

In Re: Silicone Breast Implants Prods. Liab. Litig., (N.D. Ala., So. Div., MDL 926). Representing over 1,100 individual women, Mark Hutton served as a member of the Plaintiffs' Steering Committee and worked intensively on this litigation as a member of the Science, Expert and Deposition subcommittees. As a member of the PSC, Mark Hutton took evidentiary videotape depositions to be used by lawyers throughout the country and actually took more depositions for the PSC than any other PSC member.

In Re: Norplant Contraceptive Prods. Liab. Litig., (E.D. Tex., Beaumont Div., MDL 1038). Mark Hutton was a member of the Plaintiffs' Steering Committee in the Norplant litigation, concentrating his efforts on the Science, Expert and Deposition subcommittees. He settled cases on behalf of hundreds of his individual clients.

Castano v. The American Tobacco Co., et al., (E.D. La., 94-1044). Mark Hutton served on the Plaintiffs' Liaison Counsel, a 65-member consortium of lawyers for this class action, and was a lead member of the Science & Causation Committee. In addition to his work on the *Castano* case, he was involved in litigation against manufacturers of smokeless tobacco and the investigation of tobacco addiction cases in Kansas, Oklahoma and Hawaii.

Mason, et al., v. The American Tobacco Co., et al., (E.D. N.Y., No. 00-CV-4442). Mark Hutton and his firm, along with a group of other national law firms worked together to recover, on behalf of the Medicare system, health care costs expended by Medicare in the care and treatment of its beneficiaries with smoking-related diseases.

Griego, et al., v. Bechtel Nat'l, Inc., et al., (D. Nev. No. CV-S-04-0466). Mark Hutton and his firm, along with a group of other national law firms, worked together on behalf of hundreds of unprotected workers at the Yucca Mountain Exploratory Sight Facility, NV, who had ingested free-floating silica during the excavation and testing of the facility, achieving settlement in 2007.

From the mid-1980s through 2008, Mark Hutton served as lead counsel of over 300 toxic shock syndrome cases. As such, he took depositions and oversaw the litigation of TSS cases against Proctor & Gamble, International Playtex, Johnson & Johnson, Kimberly Clark and Tambrands. He has also represented numerous victims of contraceptive devices manufactured by Ortho Pharmaceutical Corp., Pfizer and Wyeth.

CERTIFICATIONS: Civil Trial Advocacy by American Board of Trial Advocates, 1988.

MEMBERSHIPS AND ACTIVITIES: Member of Wichita, Kansas, American and International Bar Associations; Member of Kansas Association for Justice; Member of Oklahoma Trial Lawyers Association; Member of Trial Lawyers for Public Justice; Member of American College of Legal Medicine; Member of American Board of Trial Advocates; Member of The Wesley E. Brown American Inn of Court, 2008 to 2010. Featured Speaker at numerous Continuing Legal Education programs. Ethics Investigator for the Wichita Bar Association. Serves as Mediator at request of Wichita-area plaintiff and defense attorneys.

PUBLICATIONS: Author: "*Medical Malpractice Mediation Panels*," Vol. 2, No. 1, Journal of the Kansas Trial Lawyers Association. Co-Author: "*A Paradox – The Kansas Collateral Source Rule*," Vol. 2, No. 3, Journal of the Kansas Trial Lawyers Association. Author: "*Substantial Possibility: A Doctrine of Causation*," Vol. 3, No. 2, Journal of the Kansas Trial Lawyers Association. Author: "*Motion in Limine: A Mandatory Pre-Trial Motion in Civil Litigation*," Journal of the Kansas Trial Lawyers Association, Vol. 4, No. 5. Author: "*Pharmaceutical Litigation-Drug Manufacturers Duty to Warn*," Vol. 5, No. 5, Journal of the Kansas Trial Lawyers Association. Author: "*Medical Tort Law: The Emergence of Specialty Standard of Care*," Tulsa Law Journal, Vol. 16, 4, 1981. Author: "*Intrusion into the Sanctimonious Physician-Patient Relationship*," Journal of the Kansas Trial Lawyers Association, Vol. 7, No. 1, Aug. 1983. Author: "*The Privilege Log: Where the Battle Can Be Won or Lost*," Journal of the Kansas Trial Lawyers Association, Vol. 19, No. 6, July 1996. Author: "*Genetic Susceptibility to Complications from Silicone Breast Implants*," Vol. 4, No. 5, April 1996, Medical-Legal Aspects of Breast Implants Reporter. Author: "*In the Wake of 'Medtronic,' Court Rejects Baxter's Preemption Claim*," Vol. 5, No. 6, May 1997, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "*Documenting the Neurological Impact of Exposure to Silicone*," Vol. 6, No. 2, Jan. 1998, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "*Further Studies of the Link Between Breast Implants and Disease*," Vol. 6, No. 12, Nov. 1998, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "*Debate Rages On: Studies Link Breast Implants and Disease*," Vol. 7, No. 1, Dec. 1998, Medical-Legal Aspects of Breast Implants Reporter. Co-Author: "*Reye's Syndrome – The Link Between Aspirin and Reye's*," Trial, Nov. 1987. Author: "*Tampons and Toxic Shock Syndrome – Failure in Corporate Risk Management*," Trial, Feb. 1988. Author: "*Norplant Litigation: Creating an Exception to the Learned Intermediary Doctrine*," Trial, July 1996. Co-Author: "*Smokeless Tobacco: An Unrecognized Health Problem*," The Advocate – The Journal of the Oklahoma Trial Lawyers Association, Vol. 28, No. 2, 2nd Qtr. 1997; Consumer Attorneys of California Forum, Vol. 27, No. 7, Sept. 1997; and Journal of the Kansas Trial Lawyers Association, Vol. 20, No. 5, May 1997. Author: "*Alert to Plaintiffs: New Study Links Implants to Silicone in Liver*," Medical-Legal Aspects of Breast Implants Reporter, Vol. 5, No. 3, Feb. 1997.

COMMUNITY SERVICE: Member of the Board of Directors, Community Bank of Wichita, Kansas; Member of the Board of Directors, Title Midwest of Topeka, Kansas; Bi-Monthly

Mark B. Hutton

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Volunteer at The Lord's Diner, Wichita, Kansas; Volunteer at Salvation Army Christmas Distribution Center; Volunteer at Children's Orphanage in Cusco, Peru.